

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0212-PWS-E RN101196103 CASE NO. 39080
RESPONDENT NAME: PAUL SIMS DBA ROSEBOWL REGENCY INN

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 2905 Highway 290 West, Brenham, Washington County

TYPE OF OPERATION: Public water system

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that there was no water service at the Facility. There is one additional pending enforcement action regarding this facility location (2009-0472-PWS-E – set on August 25, 2010 agenda).

INTERESTED PARTIES: No one other than the ED and the respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 7, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Amanda Henry, Water Enforcement Section, MC R-12, (713) 767-3672

TCEQ Regional Contact: Mr. Frank Burleson, Water Section Manager, Waco Regional Office, MC R-9, (254) 761-3001

Respondent: Mr. Paul Sims, Rosebowl Regency Inn, 2905 Highway 290 West, Brenham, Texas 77833

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 27, 2009</p> <p>Date of Investigation Relating to this Case: November 10, 2009</p> <p>Date of NOE Relating to this Case: January 8, 2010</p> <p>Background Facts: The EDP RP was filed on March 25, 2010. Settlement was achieved, and the agreed order was signed on April 15, 2010.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to maintain a thorough plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)]. Failed to keep on file and make available for Commission review an accurate up-to-date map of the distribution system so that valves and mains may be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)]. Failed to ensure that all the Facility's electrical wiring is securely installed in compliance with local or national electrical code [30 TEX. ADMIN. CODE § 290.46(v)]. Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)]. 	<p>Total Assessed: \$607</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$107/\$500</p> <p>Respondent paid \$107 of the administrative penalty. The remaining amount of \$500 shall be payable in 5 monthly payments of \$100 each.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility on or about November 23, 2009:</p> <ol style="list-style-type: none"> Submitted a complete plant operations manual; Submitted a distribution map of the system that labels the line sizes and the location of all known valves; and Submitted documentation demonstrating that the electrical wiring for the well pump is in a conduit and securely installed. <p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to customers of the Facility in the event of distribution pressures below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that potability of the water may have been compromised; and Within 45 days, submit written certification to demonstrate compliance with Ordering Provision No. 1.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Jan-2010	Screening	25-Jan-2010	EPA Due	
	PCW	28-Jan-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Paul Sims dba Rosebowl Regency Inn	
Reg. Ent. Ref. No.	RN101196103	
Facility/Site Region	9-Waco	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	39080	No. of Violations	4
Docket No.	2010-0212-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$700
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	2.0% Enhancement	Subtotals 2, 3, & 7	\$14
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Notes: Penalty enhancement is due to one Notice of Violation ("NOV") that contains violations that are dissimilar to the violations in the current enforcement action.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$112
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$8	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$330	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$602
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.8%	Adjustment	\$5
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement is recommended for the recovery of avoided costs of compliance associated with Violation No. 4.

Final Penalty Amount	\$607
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$607
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$607
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Screening Date 25-Jan-2010

Docket No. 2010-0212-PWS-E

PCW

Respondent Paul Sims dba Rosebowl Regency Inn

Policy Revision 2 (September 2002)

Case ID No. 39080

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196103

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Penalty enhancement is due to one Notice of Violation ("NOV") that contains violations that are dissimilar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date 25-Jan-2010

Docket No. 2010-0212-PWS-E

PCW

Respondent Paul Sims dba Rosebowl Regency Inn

Policy Revision 2 (September 2002)

Case ID No. 39080

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196103

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to maintain a thorough plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was documented that the Facility did not have a plant operations manual.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Falsification	Major	Moderate	
		x		10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 13 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance with this violation as of November 23, 2009.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent Paul Sims dba Rosebowl Regency Inn
Case ID No. 39080
Req. Ent. Reference No. RN101196103
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	10-Nov-2009	23-Nov-2009	0.04	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to maintain a plant operations manual. The date required is the date of the investigation. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$0

Screening Date 25-Jan-2010

Docket No. 2010-0212-PWS-E

PCW

Respondent Paul Sims dba Rosebowl Regency Inn

Policy Revision 2 (September 2002)

Case ID No. 39080

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196103

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2)

Violation Description Failed to keep on file and make available for Commission review an accurate up-to-date map of the distribution system so that valves and mains may be easily located during emergencies. Specifically, at the time of the investigation, it was documented that the Facility did not have a distribution map available.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 13

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$25

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent achieved compliance with this violation as of November 23, 2009.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent Paul Sims dba Rosebowl Regency Inn
Case ID No. 39080
Req. Ent. Reference No. RN101196103
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$25	10-Nov-2009	23-Nov-2009	0.04	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs includes the estimated amount to develop a new distribution system map to include all mains and valves throughout the distribution system, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

\$25

TOTAL

\$0

Screening Date 25-Jan-2010

Docket No. 2010-0212-PWS-E

PCW

Respondent Paul Sims dba Rosebowl Regency Inn

Policy Revision 2 (September 2002)

Case ID No. 39080

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196103

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(v)

Violation Description Failed to ensure that all the Facility's electrical wiring is securely installed in compliance with a local or national electrical code. Specifically, at the time of the investigation, it was documented that the electrical wiring for the well pump was exposed and not installed in accordance with a local or national electrical code.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failing to properly install electrical wires in compliance with a local or national electrical code may cause equipment to malfunction resulting in low pressure or outages which could cause customers of the Facility to be exposed to significant amount of pollutants, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 15 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended calculated from the date of the investigation, November 10, 2009 to the date of compliance.

Good Faith Efforts to Comply

25.0% Reduction \$62

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance with this violation as of November 25, 2009.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$195

This violation Final Assessed Penalty (adjusted for limits) \$195

Economic Benefit Worksheet

Respondent Paul Sims dba Rosebowl Regency Inn
Case ID No. 39080
Req. Ent. Reference No. RN101196103
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$200	10-Nov-2009	25-Nov-2009	0.04	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to install electrical wiring in compliance with a local or national code, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$1

Screening Date 25-Jan-2010

Docket No. 2010-0212-PWS-E

PCW

Respondent Paul Sims dba Rosebowl Regency Inn

Policy Revision 2 (September 2002)

Case ID No. 39080

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196103

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.46(q)

Violation Description Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, at the time of the investigation, it was documented that the well was taken out-of-service to repair the pump on October 19, 2009. After the well was placed back into service, bacteriological samples were not taken nor was a boil water notice issued to ensure the drinking water was not contaminated.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to issue a boil water notice may not allow the public to take appropriate measures in response to conditions that may compromise the quality of the drinking water, thereby exposing the public to significant amounts of pollutants that would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 76

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended, for the outage that occurred on October 19, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$257

This violation Final Assessed Penalty (adjusted for limits) \$257

Economic Benefit Worksheet

Respondent Paul Sims dba Rosebowl Regency Inn
Case ID No. 39080
Reg. Ent. Reference No. RN101196103
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	10-Nov-2009	1-Sep-2010	0.81	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a written protocol to follow to ensure proper notification is posted in the event that the distribution pressure drops below 20 pounds per square inch, water outages occur, coliform samples are positive, chlorine residuals are low, or other conditions exist which indicate that the potability of the water may have been compromised. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$5	19-Oct-2009	20-Oct-2009	0.00	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount necessary to post a boil water notice in a conspicuous place, calculated for the 24 hours following the date the Facility was taken out of service to make repairs.

Approx. Cost of Compliance

\$55

TOTAL

\$7

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603440843 Sims, Paul	Classification:	Rating:
Regulated Entity:	RN101196103 ROSEBOWL REGENCY INN	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	2390042 2390042
Location:	2905 Highway 290 West, near Brenham, Texas, Washington County		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	March 13, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 13, 2004 to March 13, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Amanda Henry	Phone:	713-767-3672

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/13/2006	(439473)
2	02/20/2008	(618189)
3	04/15/2008	(638717)
4	02/26/2009	(724648)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/03/2006	(439473)	Classification:	Minor
Self Report?	NO			
Citation:	30 TAC Chapter 290, SubChapter F 290.110(d)(1) 30 TAC Chapter 290, SubChapter F 290.110(d)(1)(A) 30 TAC Chapter 290, SubChapter F 290.110(d)(1)(B) 30 TAC Chapter 290, SubChapter F 290.110(d)(1)(C)			
Description:	Failure to have a DPD colorimeter, spectrophotometer, or color comparator test kit to measure the free chlorine residual within the distribution system.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.38(34) 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)			
Description:	Failure to provide an intruder-resistant fence or a locked, ventilated well house to exclude possible contamination or damage to the well by trespassers.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)			
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)			
Description:	Failure to inspect the pressure tank internally every five years.			
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PAUL SIMS DBA ROSEBOWL
REGENCY INN;
RN101196103**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0212-PWS-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Paul Sims dba Rosebowl Regency Inn (“Mr. Sims”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Sims appear before the Commission and together stipulate that:

1. Mr. Sims owns and operates a public water system located at 2905 Highway 290 West, Brenham, Washington County, Texas (the “Facility”). The Facility provides water for human consumption, has 76 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Mr. Sims agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Sims is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Sims of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of six hundred seven dollars (\$607.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Mr. Sims paid one hundred seven dollars (\$107.00) of the administrative penalty. The remaining amount of five hundred dollars (\$500.00) of the administrative penalty shall be payable in 5 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall

be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Sims fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Mr. Sims' failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Sims to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Mr. Sims agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Mr. Sims implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. On November 23, 2009, Mr. Sims submitted a complete plant operations manual;
 - b. On November 23, 2009, Mr. Sims submitted a distribution map of the system that labels the line sizes and the location of all known valves; and
 - c. On November 25, 2009, Mr. Sims submitted a photo that demonstrated the electrical wiring for the well pump was in a conduit and securely installed.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Sims has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on November 10, 2009, a TCEQ Waco Regional Office investigator documented that Mr. Sims violated:

- a. 30 TEX. ADMIN. CODE § 290.42(l) by failing to maintain a thorough plant operations manual for operator review and reference. Specifically, the Facility did not have a plant operations manual;
 - b. 30 TEX. ADMIN. CODE § 290.46(n)(2) by failing to keep on file and make available for Commission review an accurate up-to-date map of the distribution system so that valves and mains may be easily located during emergencies. Specifically, the Facility did not have a distribution map available;
 - c. 30 TEX. ADMIN. CODE § 290.46(v) by failing to ensure that all the Facility's electrical wiring is securely installed in compliance with local or national electrical code. Specifically, the electrical wiring for the well pump was exposed and was not installed in accordance with a local or national electrical code; and
 - d. 30 TEX. ADMIN. CODE § 290.46(q) by failing to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e). Specifically, the well was taken out-of-service to repair the pump on October 19, 2009. After the well was placed back into service a boil water notice was not issued.
2. Mr. Sims received notice of the violations on or about January 13, 2010.

III. DENIALS

Mr. Sims generally denies each allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Sims pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Mr. Sims' compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Paul Sims dba Rosebowl Regency Inn, Docket No. 2010-0212-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Sims shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Mr. Sims shall develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to customers of the Facility in the event of distribution pressures below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that potability of the water may have been compromised, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
- b. Within 45 days after the effective date of this Agreed Order, Mr. Sims shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

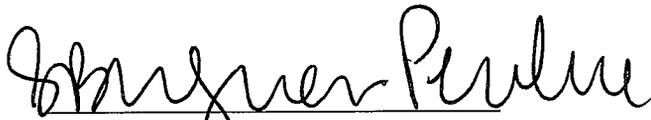
Mr. Frank Burleson, Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Sims. Mr. Sims is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Sims shall be made in writing to the Executive Director. Extensions are not effective until Mr. Sims receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Sims in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. Sims, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Sims, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/21/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Sims' compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Sims;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Mr. Sims;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Sims; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Paul W. Sims

Signature

4/15/10

Date

PAUL W. SIMS

Name (Printed or typed)

owner

Title

Paul Sims dba Rosebowl Regency Inn